IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

Crl.Rev.Pet.No. 666 of 1998()

ST.565/1994 of ADDL. SESSIONS COURT, THRISSUR
CRA.44/1997 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA

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REVN. PETITIONER: APPELLANT/ACCUSED

RAVINDRAN
S/O.MACHINGAL KRISHNANKUTTY NAIR
VETTUKAT, PUTHUR
THRISSUR DT.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING THE S.I. OF POLICE, PUDUKKAD.

BY PUBLIC PROSECUTOR SRI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.R.P.666/1998

ORDER ON CRL.M.P.NO.3451/1998 IN CRL.R.P.NO.666/1998

DISMISSED

27.3.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.No.666 of 1998

Dated this the 27th day of March, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279 and 338 IPC and sentenced to undergo R.I. for three months for the offence under Section 279 and to pay a fine of Rs.500/- and in default, to undergo simple imprisonment for one month and to undergo R.I. for six months for the offence under Section 338 IPC and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for two months.

2. The prosecution case is that the accused on 4.2.1994, at 10 a.m. drove the mini lorry bearing registration No.KRR428 in a rash and negligent manner so as to endanger human life and knocked down CW1/PW1 who was standing on the western side of the road, at Nandikara. She sustained grievous injuries resulting in amputation of the right forearm. The evidence adduced in the matter consisted the testimony of PWs' 1 to 7 and Exts. P1 to P4. PW1 testified with respect to the incident. She was not cross examined. Exts. P2 and P3 have also supported the prosecution version and also identified the accused. Ext. P4

report is AMVI. It was found that the vehicle was free from mechanical defects. In the absence of marking of the wound certificate, it was contended that it cannot be held that PW1 has sustained injuries as alleged. I find that just because of the lapse on the part of the prosecution, it cannot be held that the case is not established in view of the fact that PW1 the victim has testified. She was not cross examined, as noted above. She has also stated that she sustained fractures on the leg. In the circumstances and in view of the concurrent findings of the court below, I find no reason to interfere in the appreciation of evidence in exercise of the revisional jurisdiction of this court. The conviction is confirmed.

3. The counsel for the revision petitioner has pleaded for leniency. It is pointed out that the incident has taken place in February, 1994 and so far the accused was facing the criminal proceedings. It is also pointed out that PW1 was then aged 70 years. In the circumstances, the sentence imposed for the offence under Section 328 IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.30,000/- to PW1 vide Section 357(3) of the Code of Criminal Procedure

and in default, to undergo simple imprisonment for four months. Revision petitioner shall appear before the Judicial First Class Magistrate Court, Irinjalakuda on 10.7.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl